(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

CRIMINAL MISCELLANEOUS APPLICATION NO. 101 OF 2004

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. S. N. Sardessai, Public Prosecutor for the State.

CORAM : P. V. HARDAS, J.

DATE : 29TH APRIL, 2004.

P.C.:

The State being aggrieved by the Judgment dated 23rd January, 2004, rendered by the learned Judicial Magistrate, First Class, Margao, in Criminal Case No.62/S/03/F acquitting the Respondent/Accused for an offence punishable under Sections 279 and 338 of the Indian Penal Code has filed the present Appeal.

The acquittal of the Respondent/Accused is based principally on the appreciation of the evidence of P.W.1, who was the motor cycle pilot and P.W.2, who was

the pillion rider.

The learned Magistrate has noticed that there were omissions on the material aspect of this case in respect of both these witnesses to render their case doubtful. All that emerges is the fact that these witnesses alleged that the Respondent/Accused had driven his maruti car at high speed. The learned Trial Court admitted that in the absence of any material on the rash and negligent driving of the Respondent/Accused, high speed by itself was not sufficient to infer that the Respondent/Accused was rash or negligent. Admittedly, the motor cycle Inspector has been examined as a witness who has examined both the vehicles. The Inspector, has admitted that the motor cycle driven by P.W.1 had not passed the fitness test. The panchanama of the scene of offence, was also of no assistance to the prosecution in even remotely drawing an inference that the Respondent/Accused had

driven the maruti car in rash and negligent manner.

I have heard Mr. S. N. Sardessai, learned Public Prosecutor for the State. I have persued the Judgment of the learned Trial Court as well as the copies of the evidence of the witnesses which have been made available to me across the Bar.

The reasons given by the learned Trial Court for acquittal of the Respondent/Accused are reasons which can be culled out on the basis of the material on record. There is no reason to warrant any interference in this Appeal against acquittal. According to me, there is no substance in the said Appeal filed by the State and accordingly leave to file Appeal is dismissed.

P. V. HARDAS, J.

RD.